

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NECA-IBEW PENSION TRUST FUND and)	Case No. 10-cv-00440 (LAK) (HBP)
DENIS MONTGOMERY, on Behalf of)	
Themselves and All Others Similarly Situated,)	
)	<u>CLASS ACTION</u>
Plaintiffs,)	
)	
v.)	ECF CASE
)	
BANK OF AMERICA CORPORATION,)	
<i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**REPLY DECLARATION OF C. MICHAEL PLAVI, II IN SUPPORT
OF PLAINTIFFS' TO MOTION FOR LEAVE TO FILE A
SECOND AMENDED CLASS ACTION COMPLAINT**

I, C. Michael Plavi, II, declare as follows:

I am an attorney duly licensed and entitled to practice law in California and have been admitted *pro hac vice* in this matter. I am a member of the law firm Finkelstein & Krinsk LLP, attorneys for Lead Plaintiff NECA-IBEW Pension Trust Fund (“NECA-IBEW”) and individual plaintiff Denis Montgomery (collectively “Plaintiffs”) in this action. I submit this declaration in reply and in support of Plaintiffs’ motion for leave to file a Second Amended Class Action Complaint.

1. Attached as Exhibit A is a true and correct copy of a revised redlined version of Plaintiffs’ Second Amended Class Action Complaint reflecting two modifications at paragraphs 97 and 131 as identified in Plaintiffs’ Reply brief at pages 8, fn.10 and 11, fn.14.

2. Attached as Exhibit B is a true and correct copy of excerpts from Bank of America Corporation’s (“BAC”) fiscal year-end 1998 Form 10-K, publicly filed with the Securities Exchange Commission (“SEC”) on March 22, 1999, and available on the Internet from, the SEC’s Electronic Data Gathering, Analysis, and Retrieval system (“EDGAR”), at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

3. Attached as Exhibit C is a true and correct copy of excerpts from BAC’s fiscal year-end 2003 Form 10-K, publicly filed with the SEC on March 1, 2004, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

4. Attached as Exhibit D is a true and correct copy of excerpts from BAC’s fiscal year-end 2005 Form 10-K, publicly filed with the SEC on March 16, 2006, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

5. Attached as Exhibit E is a true and correct copy of excerpts from BAC's fiscal year-end 2006 Form 10-K, publicly filed with the SEC on February 28, 2007, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

6. Attached as Exhibit F is a true and correct copy of excerpts from BAC's first-quarter 2007 Form 10-Q, publicly filed with the SEC on May 9, 2007, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

7. Attached as Exhibit G is a true and correct copy of excerpts from BAC's Form 8-K, publicly filed with the SEC on May 23, 2007, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

8. Attached as Exhibit H is a true and correct copy of excerpts from BAC's second-quarter 2007 Form 10-Q, publicly filed with the SEC on August 8, 2007, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

9. Attached as Exhibit I is a true and correct copy of excerpts from BAC's third-quarter 2007 Form 10-Q, publicly filed with the SEC on November 9, 2007, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

10. Attached as Exhibit J is a true and correct copy of excerpts from BAC's Form 8-K, publicly filed with the SEC on January 11, 2008, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

11. Attached as Exhibit K is a true and correct copy of excerpts from BAC's Form 8-K, publicly filed with the SEC on January 22, 2008, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

12. Attached as Exhibit L is a true and correct copy of excerpts from BAC's fiscal year-end 2007 Form 10-K, publicly filed with the SEC on February 28, 2008, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

13. Attached as Exhibit M is a true and correct copy of excerpts from BAC's first-quarter 2008 Form 10-Q, publicly filed with the SEC on May 8, 2008, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on May 15, 2012.

14. The Financial Crisis Inquiry Commission ("FCIC") was created by Congress in May 2009 to "examine the causes, domestic and global, of the current financial and economic crisis in the United States" as part of the Fraud Enforcement and Recovery Act (Public Law 111-21). <http://fcic.law.stanford.edu/about>. The FCIC released its final report to the public on January 27, 2011 and thereafter made public various documents and interviews to the public.

15. Attached as Exhibit N is a true and correct copy of the FCIC's February 10, 2011 Media Advisory announcing the February 13, 2011 public release of various documents and interviews obtained by the FCIC during its inquiry, including Exhibit A to Plaintiff's SAC. The Media Advisory is available on the Internet from the FCIC's website, at http://fcic-static.law.stanford.edu/cdn_media/fcic-news/Press_Release_2.10.11.pdf, and was printed from that site on May 15, 2012.

16. A true and correct copy of the document submitted by BAC in response to a request by the FCIC relating to Countrywide loan originations between 2003 and 2007 is attached to Plaintiff's SAC as Exhibit A. This document, initially marked confidential, bears bates number BAC-FCIC-00000055785 and is identified as "0000-00-00 Countrywide Originatons by Quarter from 2003 to 2007," as posted by the FCIC at:
<http://fcic.law.stanford.edu/resource/index/page:5/Search.keywords:countrywide%20/Search.Videos:1/Search.Documents:1/Search.Interviews:1/Search.endmonth:03/Search.endyear:2012>.

17. Exhibit A to Plaintiffs' SAC shows that Countrywide made a total of 166,638 loan originations in the fourth quarter of 2007 ("4Q07"). Of the 166,638 originations in 4Q07, 5,614 were Alt-A loans, or 3.36% of all 4Q07 originations. Of the 166,638 originations in 4Q07, 406 were Pay-option loans, or 0.24% of all 4Q07 originations. Combined, 4Q07 Alt-A and Pay-Option loan originations totaled 6,020, or 3.6% of all then current market Countrywide loan originations.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 18, 2012 in San Diego, California.



C. Michael Plavi, II